

(iii) A quarterly timeline, from the date of the application, indicating the expected exhaust toxics emissions performance of the refinery's conventional gasoline, and the reasons for any expected non-compliance with the compliance baseline specified in paragraph (b) of this section (for example, a particular gasoline blendstock-producing unit not yet installed). The timeline shall include the date by which the refinery will produce conventional gasoline that complies with the baseline specified in paragraph (b) of this section on an annual average basis.

(4) *Approval or disapproval of petitions.*

(i) The Administrator may approve a petition if it includes information sufficient to demonstrate to the Administrator's satisfaction that cost and/or technological constraints make it infeasible for the refinery to comply with the baseline specified in paragraph (b) of this section. The Administrator will approve or deny a petition in writing within six months of receipt.

(ii)(A) Each approval will specify the date by which the refinery must comply with the baseline specified in paragraph (b) of this section. No petition approval shall allow for use of the statutory baseline exhaust toxics emissions, Phase II value as a refinery's compliance baseline under this subpart J beyond the last day of a refinery's alternative anti-dumping averaging period under § 80.101(k) or § 80.101(l).

(B) An approval may include any conditions or other requirements to which the approval is subject.

(5) *Effective date for petition.* (i) Beginning with the averaging period immediately following the end of the approved period under paragraph (c)(4) of this section, the compliance baseline for the purposes of this subpart J shall be as specified in paragraph (b) of this section.

(ii) Notwithstanding the requirement specified in paragraph (c)(5)(i) of this section, if at any time the alternative compliance period approved under § 80.101(k) or § 80.101(l) ceases to apply, the approval granted under this paragraph (c) shall also cease to apply.

[68 FR 24309, May 6, 2003]

§§ 80.860–80.905 [Reserved]

BASELINE DETERMINATION

§ 80.910 **How does a refiner or importer apply for a toxics baseline?**

(a) A refiner or importer shall submit an application to EPA which includes the information required under paragraph (c) of this section no later than June 30, 2001 or 3 months prior to the first introduction of gasoline into commerce from the refinery or by the importer, whichever is later.

(b) The toxics baseline request shall be sent to: U.S. EPA, Attn: Toxics Program (6406J), 1200 Pennsylvania Ave., NW, Washington, DC 20460. For commercial (non-postal) delivery: U.S. EPA, Attn: Toxics Program, 501 3rd Street NW, Washington, DC 20001.

(c) The toxics baseline application shall include the following information:

(1) A listing of the names and addresses of all refineries owned by the company for which the refiner is applying for a toxics baseline, or the name and address of the importer applying for a toxics baseline.

(2) For each refinery and importer—

(i) The baseline toxics value for each type of gasoline, per § 80.815(b), calculated in accordance with § 80.915;

(ii) The baseline toxics volume for each type of gasoline, per § 80.815(b), calculated in accordance with § 80.915;

(iii) For those with insufficient data pursuant to § 80.855, a statement that the refinery's or importer's baseline toxics value is the default compliance baseline specified at § 80.855(b), and that its baseline toxics volume is zero.

(3) A letter signed by the president, chief operating or chief executive officer, of the company, or his/her delegate, stating that the information contained in the toxics baseline determination is true to the best of his/her knowledge.

(4) Name, address, phone number, facsimile number and E-mail address of a company contact person.

(5) The following information for each batch of gasoline produced or imported during the period 1998–2000, separately for each type of gasoline listed at § 80.815(b):

Environmental Protection Agency

§ 80.915

(i) Batch number assigned to the batch under § 80.65(d) or § 80.101(i);

(ii) Volume; and

(iii) Applicable toxics value determined as specified at § 80.915(c).

(d) Foreign refiners shall follow the procedures specified in § 80.1030(b) to establish individual toxics baseline values for a foreign refinery.

(e) By October 31, 2001, or 4 months after the submission date, whichever is later, EPA will notify the submitter of approval of its toxics baseline.

(f) If at any time the baseline submitted in accordance with the requirements of this section is determined to be incorrect, the corrected baseline applies ab initio and the annual average toxics requirements are deemed to be those applicable under the corrected information.

§ 80.915 How are the baseline toxics value and baseline toxics volume determined?

(a)(1) A refinery or importer shall use the methodology specified in this section for determining a baseline toxics value if it can determine an applicable toxics value for every batch of gasoline produced or imported for 12 or more consecutive months during January 1, 1998 through December 31, 2000.

(2) The determination in paragraph (a)(1) of this section is made separately for each type of gasoline listed at § 80.815(b) produced or imported between January 1, 1998 and December 31, 2000, inclusive.

(3) All consecutive and non-consecutive batch toxics measurements between January 1, 1998 and December 31, 2000, inclusive, are to be included in the baseline determination, unless the refinery or importer petitions EPA to exclude such data on the basis of data quality, per § 80.91(d)(6), and receives permission from EPA to exclude such data.

(b)(1) A refinery's or importer's baseline toxics value is calculated using the following equation:

$$T_{\text{Base}} = \frac{\sum_{i=1}^n (V_i \times T_i)}{\sum_{i=1}^n V_i} + M$$

Where:

T_{Base} = Baseline toxics value.

V_i = Volume of gasoline batch i produced or imported between January 1, 1998 and December 31, 2000, inclusive.

T_i = Toxics value of gasoline batch i produced or imported between January 1, 1998 and December 31, 2000, inclusive.

i = Individual batch of gasoline produced or imported between January 1, 1998 and December 31, 2000, inclusive.

n = Total number of batches of gasoline produced or imported between January 1, 1998 and December 31, 2000, inclusive.

M = Compliance margin.

(2) A refinery's or importer's baseline toxics volume is calculated using the following equation:

$$V_{\text{base}} = \frac{\sum_{i=1}^n V_i}{Y}$$

Where:

V_{base} = Baseline toxics volume.

V_i = Volume of gasoline batch i produced or imported between January 1, 1998 and December 31, 2000, inclusive.

i = Individual batch of gasoline produced or imported between January 1, 1998 and December 31, 2000, inclusive.

n = Total number of batches of gasoline produced or imported between January 1, 1998 and December 31, 2000, inclusive.

Y = Number of years between 1998 and 2000, inclusive, during some or all of which the refinery produced, or the importer imported, gasoline.

(c) The calculation specified in paragraph (b) of this section shall be made separately for each type of gasoline listed at § 80.815(b).

(d) The toxics value, T_i , of each batch of gasoline is determined using the Phase II Complex Model specified at § 80.45.

(1) The toxics value, T_i , of each batch of reformulated gasoline or RBOB, and the baseline toxics value, T_{Base} , for reformulated gasoline and RBOB, combined, under this subpart are in percent reduction from the statutory baseline defined in 40 CFR 80.45(b) and volumes are in gallons.

(2) The toxics value, T_i , of each batch of conventional gasoline, and the baseline toxics value, T_{Base} , for conventional gasoline under this subpart are in milligrams per mile (mg/mile) and volumes are in gallons.